



21SL-CC03859 - BENJAMIN RUBY V BUILD-A-BEAR WORKSHOP, INC. (E-CASE)

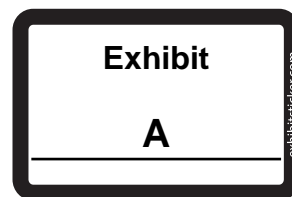
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- 08/30/2021 ☐ **Summons Personally Served**
Document ID - 21-SMCC-7544; Served To - BUILD-A-BEAR WORKSHOP, INC.; Server - ; Served Date - 25-AUG-21; Served Time - 00:00:00; Service Type - Special Process Server; Reason Description - Served
- 08/25/2021 ☐ **[Affidavit Filed](#)**
Affidavit of Service; Electronic Filing Certificate of Service.
Filed By: CHRISTOPHER ELISHA ROBERTS
On Behalf Of: BENJAMIN RUBY
- 08/24/2021 ☐ **[Entry of Appearance Filed](#)**
Entry of Appearance; Electronic Filing Certificate of Service.
Filed By: DAVID THRIFT BUTSCH
On Behalf Of: BENJAMIN RUBY
- ☐ **[Summons Issued-Circuit](#)**
Document ID: 21-SMCC-7544, for BUILD-A-BEAR WORKSHOP, INC..Summons Attached in PDF Form for Attorney to Retrieve from Secure Case.Net and Process for Service.
- ☐ **Filing Info Sheet eFiling**
Filed By: CHRISTOPHER ELISHA ROBERTS
- ☐ **[Motion Special Process Server](#)**
Motion to Appoint Special Process Server.
Filed By: CHRISTOPHER ELISHA ROBERTS
On Behalf Of: BENJAMIN RUBY
- ☐ **[Pet Filed in Circuit Ct](#)**
Petition.
Filed By: CHRISTOPHER ELISHA ROBERTS
- ☐ **Judge Assigned**
DIV 12



IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

BENJAMIN RUBY, individually, and on)	
behalf of all others similarly situated,)	
)	
Plaintiff,)	
)	Case No.
v.)	
)	Division
BUILD-A-BEAR WORKSHOP, INC.)	
)	JURY TRIAL DEMANDED
Serve registered agent at:)	
Tina Klocke)	
1954 Innerbelt Business Center Drive)	
St. Louis, Missouri 63114)	
)	
Defendant.)	

CLASS ACTION PETITION

Plaintiff Benjamin Ruby, through his undersigned counsel, brings this Class Action Petition against Defendant Build-a-Bear Workshop, Inc. (“Build-a-Bear”), and states as follows:

INTRODUCTION

1. This case concerns Build-a-Bear’s violations of the Telephone Consumer Protection Act (TCPA) and its regulations by sending two or more text messages to members of the Do Not Call Registry without their consent in a 12-month period.

2. In the early 1990s, Congress enacted the TCPA to protect consumers’ privacy rights, namely, the right to be left alone from unwanted telemarketing calls. A leading sponsor of the TCPA described unwanted telemarketing calls as “the scourge of modern civilization.” 137 Cong. Rec. 30821 (1991).

3. The TCPA and its corresponding regulations afford special protections for people who registered their cell phone numbers on the National Do Not Call Registry. Specifically, the

TCPA provides that each person who receives more than one call on their cell phone after being registered on the National Do Not Call Registry is entitled to recover a penalty of \$500 per call, and up to \$1,500 per call if the TCPA is willfully or knowingly violated.

4. Plaintiff is a member of the Do Not Call Registry.

5. Build-a-Bear sent Plaintiff unwanted text messages, and expressly and repeatedly revoked his consent. By continuing to send unwelcome text messages to Plaintiff after he revoked consent, Build-a-Bear violated the TCPA and its regulations.

6. Plaintiff brings this TCPA action individually, and on behalf of all those similarly situated, to seek redress for Build-a-Bear's wrongful conduct.

PARTIES

7. Plaintiff Benjamin Ruby is an individual who resides in Louisville, Kentucky.

8. Defendant Build-a-Bear Workshop, Inc. is a Delaware corporation with its principal place of business in St. Louis County at 1954 Innerbelt Business Center Drive, St. Louis, Missouri.

JURISDICTION AND VENUE

9. In addition to its headquarters being in St. Louis County, Build-a-Bear conducts substantial business in St. Louis County, including, but not limited to sales and marketing of stuffed animals and characters.

10. This Court has personal jurisdiction over Build-a-Bear because it has solicited business in the State of Missouri, conducts business in the State of Missouri, has committed the acts described below in the State of Missouri and otherwise has sufficient minimum contacts with the State of Missouri.

11. Venue is proper in this Court because a substantial portion of the events giving rise to the claims asserted in this Petition occurred in St. Louis County, Missouri.

FACTUAL ALLEGATIONS

12. Build-a-Bear is in the business of selling and marketing stuffed animals and characters. According to its website, Build-a-Bear has sold 160 million stuffed dolls. According to its 2020 Form 10-K filed with the Securities and Exchange Commission, Build-a-Bear conducts business through its website and operates 305 stores in the United States. Pursuant to these operations, Build-a-Bear maintains a database with information about more than 10 million consumers.

13. Through the Do Not Call Registry maintained by the Federal Trade Commission, consumers may register their telephone numbers and express their unwillingness to receive unsolicited text messages.

14. Plaintiff registered his mobile phone number, 270-871-XXXX, with the Do Not Call Registry on May 4, 2008.

15. Plaintiff purchased three stuffed animals through Build-a-Bear's website in August 2020. To the best of his knowledge, Plaintiff was not aware of consenting to receiving text messages from Build-a-Bear.

16. In November 2020, Build-a-Bear began texting Plaintiff text messages to his mobile phone via SMS short code 34345. Each text started with the abbreviation "BABW," short for "Build-a-Bear Workshop." The text messages promoted the sale of stuffed animals and supplied short hyperlinks to the Build-a-Bear website or social media.

17. On November 18, 2020, Build-a-Bear sent the following text message to Plaintiff:

BABW: Good Morning, Friend! Join us today for Merry Gifting LIVE. Deal reveals, great gift ideas and more. Starts at 10am CST and Facebook <https://bit.ly/36Sn24y>

18. On November 25, 2020, Build-a-Bear sent the following text message to Plaintiff:

BABW: Friend, guess what? You can save for Black Friday! Furry friends starting online at \$8 and more deals. Shop now for your Nice List. <https://bit.ly/35Vtetc>

19. On November 29, 2020, Build-a-Bear sent the following text message to Plaintiff:

BABW: Psst! Do not miss out, Friend! CyBEAR Monday starts NOW. Take 40% off furry friends online and save on more deals! <https://bit.ly/2JhY2f5>

20. Later on November 29, 2020, Plaintiff responded by texting “Stop” twice. Build-a-Bear replied twice with the following message:

You have been opted out and will receive no further messages from Build-A-Bear Alerts, 877-789-2327 and Guest.Services@buildabear.com for assistance.

21. Notwithstanding Plaintiff’s purported opt out, on December 7, 2020, Build-a-Bear sent the following message to Plaintiff:

BABW: The Christmas Countdown is on, Friend! Furry friends start at \$8 online for a limited time. It’s not too late to deliver hugs in time! www.buildabear.com.

22. Plaintiff again responded by texting “Stop.” Build-a-Bear again replied,

You have been opted out and will receive no further messages from Build-A-Bear Alerts, 877-789-2327 and Guest.Services@buildabear.com for assistance.

23. Notwithstanding Plaintiff’s repeated attempts to opt out, on December 17, 2020, Build-a-Bear sent the following message to Plaintiff :

BABW: We’ve got your back, Friend! Make unique gifts online and select pickup in store or NEW same-day delivery! You’ve got this, Santa! <https://bit.ly/34l5k9f>

24. Later on December 17, Plaintiff texted back in frustration, “I’ve told you to stop quit harassing me.” Build-a-Bear replied, “Sorry, we’re unable to reply to individual text messages. We invite you to check out all the fun stuff on buildabear.com—if you need help, our team will be happy to assist you!”

25. Later on December 17, Plaintiff responded by texting “Stop” in response four more times. Build-a-Bear made the same response as to the prior “stop” texts (“You have been opted out”).

26. On January 21, 2021, Build-a-Bear sent the following text message to Plaintiff:

BABW: Hi, Friend! Bear hugs make the best gift, especially when its National Hug Day! Shop huggable friends online starting at only \$10. <https://bit.ly/2LRZvKo>

27. On January 26, 2021, Build-a-Bear sent the following text message to Plaintiff:

BABW: PRO TIP—Order sweet gifts by tomorrow for delivery in time for Valentine’s Day using standard shipping. Channel Your Inner Cupid! <https://bit.ly/2NZP1JG>

28. Later on January 26, Plaintiff texted back twice: “Stop” and “Quit.” This prompted two more identical responses (“You have been opted out”).

29. Plaintiff’s efforts to opt out of text messages show that Build-a-Bear’s systems for opting out are nonfunctional and that consumers were powerless to opt out of Build-a-Bear’s text messages.

30. According to its Global Privacy Policy as of January 2021, Build-a-Bear “honors a ‘once out—always out’ policy. Once you opt out, you are opted out of that type of communication and that brand until we are explicitly told in writing to opt you back in.”

31. Even when Plaintiff repeatedly and unambiguously revoked consent, Build-a-Bear knowingly and willfully sent several text messages to Plaintiff, a member of the Do Not Call

Registry, in violation of its “once out—always out” policy. After his revocations, Plaintiff never explicitly told Build-a-Bear in writing that he was consenting to receive text messages.

32. Plaintiff maintained his registration on the Do Not Call Registry because he did not want to receive unwelcome and annoying communications like the text messages he received from Build-a-Bear. Plaintiff was annoyed by the text messages he received from Build-a-Bear. He felt that the text messages, particularly after his repeated requests to opt out, were intrusive and that they interfered with his use and enjoyment of his telephone.

CLASS ACTION ALLEGATIONS

33. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully stated herein.

34. Plaintiff brings this action on behalf of himself and the following class in accordance with Missouri Supreme Court Rule 52.08:

All natural persons residing in the United States who (1) registered their telephone number(s) with the Do Not Call Registry; (2) at least 31 days after Do Not Call registration and in the four years prior to the filing of this lawsuit, received two or more text message solicitations from Build-a-Bear within a 12-month period; and (3) prior to receiving such text message solicitations, had revoked consent to receiving such text message solicitations from Build-a-Bear.

35. Plaintiff maintains the right to redefine the Class as necessary to reflect the developing facts as litigation and discovery progresses.

36. The Class is numerous which makes joinder of individual plaintiffs impractical. The actual number of Class Members is not precisely known, but the Class is likely to consist of at least 40 and possibly hundreds of individuals. Build-a-Bear has information that will allow the number of Class Members to be more precisely determined.

37. This litigation presents several questions of law and fact that are common to both Plaintiff and the Class, and these questions predominate over any questions that may affect individual class members. These questions are, but not limited to the following:

- a. Whether Build-a-Bear sent text messages to persons who had previously registered their telephone numbers with the National Do Not Call Registry;
- b. Whether Build-a-Bear sent text messages to members of the Do Not Call Registry without their consent;
- c. Whether Build-a-Bear sent text messages to members of the Do Not Call Registry after those persons sent communications revoking their consent;
- d. Whether Build-a-Bear sent text messages to members of the Do Not Call Registry for the purpose of advertising any property, goods, or services;
- e. Whether Build-a-Bear willfully or knowingly violated the TCPA and its regulations.

38. Plaintiff's claims are typical to all Class Members. Through a common course of misconduct, including Build-a-Bear's failure to maintain effective systems for Class Members to opt out of text messages, Plaintiff and Class Members suffered similar types of harm.

39. Plaintiff will fairly and adequately represent and protect the interests of Class Members. Plaintiff retained experienced counsel with the necessary expertise and resources to prosecute this class action litigation. Plaintiff and his counsel do not anticipate circumstances where Plaintiff's interests would conflict with those of Class Members.

40. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. The value of Class Members' claims is low enough that it is not

economical for Class Members to individually litigate their claims. Proceeding as a class will prevent inconsistent rulings and judgments.

41. Build-a-Bear acted on grounds that generally apply to the Class such that injunctive relief and money damages is appropriate. Such grounds include injunctive relief to prevent Build-a-Bear from texting members of the Do Not Call Registry who have not consented or revoked their consent to text messages.

COUNT I
VIOLATION OF THE TELEPHONE CONSUMER PROTECTION ACT
(47 U.S.C. § 227, et seq.)
(Individually and on Behalf of the National Do Not Call Registry Class)

42. Plaintiff re-alleges all preceding paragraphs of this Complaint and incorporates them here by reference.

43. The TCPA grants a private right of action to a person who receives more than one telephone call within a 12-month period in violation of TCPA laws and regulations protecting members of the Do Not Call Registry. *See* 47 U.S.C. § 227(c)(5).

44. For purposes of the TCPA, “telephone calls” include text messages. *See* Federal Communications Commission, Public Notice, *Text Message Senders Must Comply with the Telephone Consumer Protection Act*, DA 16-1299 (Nov. 18, 2016); *see generally* *Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946, 954 (9th Cir. 2009).

45. TCPA regulations forbid telephone solicitations to any residential telephone subscriber who registered his or her telephone number on the Do Not Call Registry. 47 C.F.R. § 64.1200(c)(2).

46. For purposes of the TCPA, “telephone solicitation” is defined as a “call or message for the purpose of encouraging the purchase ... [of] property, goods, or services” but excludes a

call or message “to any person with that person’s prior express invitation or permission.” 47 U.S.C. § 227(a)(4).

47. At all times relevant to the allegations in this Complaint, Plaintiff was a residential telephone subscriber with his telephone number registered to the Do Not Call Registry.

48. Within a 12-month period, including but not limited to the period from November 2020 through the date of the filing of this Complaint, Build-a-Bear sent more than one text message to Plaintiff. The text messages encouraged Plaintiff to purchase Build-a-Bear’s goods and services, specifically the stuffed animals and characters that Build-a-Bear constructs and offers for sale.

49. Plaintiff did not invite Build-a-Bear to send him text messages or grant Build-a-Bear permission to send him text messages. Assuming strictly for the sake of argument that Plaintiff ever granted prior consent to text messages from Build-a-Bear, Plaintiff unambiguously revoked consent through text messages to Build-a-Bear on November 29, 2020; December 7, 2020; December 17, 2020; and January 26, 2021.

50. A person aggrieved by violations TCPA laws and regulations protecting members of the Do Not Call Registry may pursue injunctive relief; recover actual monetary loss or up to \$500 per each violation, whichever is greater; or both. If violations of TCPA regulations protecting members of the Do Not Call registry are knowing or willful, the damages may be tripled. 47 U.S.C. § 227(c)(5).

51. Because Build-a-Bear disregarded Plaintiff’s repeated attempts to revoke consent to text messages, and because its systems for revoking consent by text message are ineffective and nonfunctional, Build-a-Bear’s violations are knowing and willful.

52. Plaintiff and the Class accordingly demand judgment against Build-a-Bear for statutory damages, treble damages, attorney fees and costs, and any other relief provided by law.

PRAYER FOR RELIEF

Plaintiff Benjamin Ruby prays for relief as follows:

- a. Class certification under Missouri Supreme Court Rule 52.08 and appointment of the undersigned counsel as Class Counsel.
- b. Damages in an amount to be determined at trial, or in the alternative, statutory damages under the TCPA of no less than \$500 per violation, and up to \$1,500 per each violation determined to be willful.
- c. All other damages and relief authorized by statute or law, including but not limited to attorney fees and costs.
- d. A decree enjoining Defendant from further violations of the TCPA including, but not limited to, violations of TCPA regulations protecting members of the Do Not Call Registry.
- e. All courts costs and requiring Build-a-Bear to pay for class administration.
- f. All applicable pre-judgment and post-judgment interest.
- g. Any other relief this Court deems just and equitable.

JURY TRIAL DEMANDED

BUTSCH, ROBERTS & ASSOCIATES LLC

By: /s/Christopher E. Roberts

David T. Butsch #37539
Christopher E. Roberts #61895
231 South Bemiston Ave., Suite 260
Clayton, MO 63105
(314) 863-5700 (telephone)
(314) 863-5711 (fax)
butsch@butschroberts.com
roberts@butschroberts.com

Shawn J. Wanta (*pro hac* application forthcoming)
Scott Moriarity (*pro hac* application forthcoming)
BAILLON THOME JOZWIAK & WANTA LLP
100 South Fifth Street, Suite 1200
Minneapolis, MN 55402
Telephone: (612) 252-3570
Fax: (612) 252-3571
samoriarity@baillonhome.com
sjwanta@baillonhome.com

ATTORNEYS FOR PLAINTIFF

In the
CIRCUIT COURT
Of St. Louis County, Missouri



For File Stamp Only

BENJAMIN RUBY
 Plaintiff/Petitioner

August 24, 2021
 Date

vs.

BUILD-A-BEAR WORKSHOP, INC.
 Defendant/Respondent

Case Number

Division

REQUEST FOR APPOINTMENT OF PROCESS SERVER

Comes now Plaintiff Benjamin Ruby, pursuant
 Requesting Party

to Local Rule 28, and at his/her/its own risk requests the appointment of the Circuit Clerk of

Jack Eisen 1601 Orchard Lakes, St. Louis, MO 63146 314-993-1998
 Name of Process Server Address Telephone

Name of Process Server Address or in the Alternative Telephone

Name of Process Server Address or in the Alternative Telephone

Natural person(s) of lawful age to serve the summons and petition in this cause on the below named parties. This appointment as special process server does not include the authorization to carry a concealed weapon in the performance thereof.

SERVE:

Tina Klocke
 Name
1954 Innerbelt Business Center Dr.
 Address
St. Louis, MO 63114
 City/State/Zip

SERVE:

Name
 Address
 City/State/Zip

SERVE:

Name
 Address
 City/State/Zip

SERVE:

Name
 Address
 City/State/Zip

Appointed as requested:

JOAN M. GILMER, Circuit Clerk

By _____
 Deputy Clerk

_____ Date

/s/ Christopher E. Roberts
 Signature of Attorney/Plaintiff/Petitioner
61895
 Bar No.
231 South Bemiston Ave., Ste. 260, Clayton, MO 63105
 Address
(314) 863-5700 (314) 863-5711
 Phone No. Fax No.

Local Rule 28. SPECIAL PROCESS SERVERS

(1) Any Judge may appoint a Special Process Server in writing in accordance with the law and at the risk and expense of the requesting party except no special process server shall be appointed to serve a garnishment [except as allowed by Missouri Supreme Court Rule 90.03(a)].

This appointment as Special Process Server does not include the authorization to carry a concealed weapon in the performance thereof.

(2) The Circuit Clerk may appoint a natural person other than the Sheriff to serve process in any cause in accordance with this subsection;

(A) Appointments may list more than one server as alternates.

(B) The appointment of a person other than the Sheriff to serve process shall be made at the risk and expense of the requesting party.

(C) Any person of lawful age, other than the Sheriff, appointed to serve process shall be a natural person and not a corporation or other business association.

(D) No person, other than the Sheriff, shall be appointed to serve any order, writ or other process which requires any levy, seizure, sequestration, garnishment, [except as allowed by Missouri Supreme Court Rule 90.03(a)], or other taking.

(E) Requests for appointment of a person other than the Sheriff to serve process shall be made on a "Request for Appointment of Process Server" electronic form, which may be found on the Court's Web Site, <http://www.stlouisco.com>. (LawandPublicSafety/Circuit/Forms).

(F) This appointment as Special Process Server does not include the authorization to carry a concealed weapon in the performance thereof.

SERVICE RETURN

Any service by the St. Louis County Sheriff's Office shall be scanned into the courts case management system. Any service by another Sheriff or a Special Process Server or any other person authorized to serve process shall return to the attorney or party who sought service and the attorney shall file the return electronically to the Circuit Clerk.

In the
CIRCUIT COURT
Of St. Louis County, Missouri



For File Stamp Only

BENJAMIN RUBY
 Plaintiff/Petitioner

August 24, 2021
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vs.

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Tina Klocke
 Name
1954 Innerbelt Business Center Dr.
 Address
St. Louis, MO 63114
 City/State/Zip

SERVE:

Name
 Address
 City/State/Zip

SERVE:

Name
 Address
 City/State/Zip

SERVE:

Name
 Address
 City/State/Zip

Appointed as requested:

JOAN M. GILMER, Circuit Clerk

By /s/Molly Thal
 Deputy Clerk

08/24/2021
 Date

/s/ Christopher E. Roberts
 Signature of Attorney/Plaintiff/Petitioner
61895
 Bar No.
231 South Bemiston Ave., Ste. 260, Clayton, MO 63105
 Address
(314) 863-5700 (314) 863-5711
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IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: STANLEY JAMES WALLACH	Case Number: 21SL-CC03859
Plaintiff/Petitioner: BENJAMIN RUBY	Plaintiff's/Petitioner's Attorney/Address CHRISTOPHER ELISHA ROBERTS SUITE 200 231 SOUTH BEMISTON AVE. CLAYTON, MO 63105
Defendant/Respondent: BUILD-A-BEAR WORKSHOP, INC.	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105
Nature of Suit: CC Other Tort	

(Date File Stamp)

Summons in Civil Case

The State of Missouri to: BUILD-A-BEAR WORKSHOP, INC.

Alias:

TINA KLOCKE, REGISTERED AGENT
1954 INNERBELT BUSINESS CTR DR
ST. LOUIS, MO 63114

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

SPECIAL NEEDS: If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739, email at SLCADA@courts.mo.gov, or through Relay Missouri by dialing 711 or 800-735-2966, at least three business days in advance of the court proceeding.

24-AUG-2021

Date

Further Information:
MT

Jean P. Dineen
Clerk

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person of the Defendant's/Respondent's family over the age of 15 years who permanently resides with the Defendant/Respondent.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).
- ☐ other _____.

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires: _____

Date

Notary Public

Sheriff's Fees, if applicable

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00 _____

Mileage \$ _____ (_____ miles @ \$._____ per mile)

Total \$ _____

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

Twenty First Judicial Circuit

NOTICE OF ALTERNATIVE DISPUTE RESOLUTION SERVICES

Purpose of Notice

As a party to a lawsuit in this court, you have the right to have a judge or jury decide your case. However, most lawsuits are settled by the parties before a trial takes place. This is often true even when the parties initially believe that settlement is not possible. A settlement reduces the expense and inconvenience of litigation. It also eliminates any uncertainty about the results of a trial.

Alternative dispute resolution services and procedures are available that may help the parties settle their lawsuit faster and at less cost. Often such services are most effective in reducing costs if used early in the course of a lawsuit. Your attorney can aid you in deciding whether and when such services would be helpful in your case.

Your Rights and Obligations in Court Are Not Affected By This Notice

You may decide to use an alternative dispute resolution procedure if the other parties to your case agree to do so. In some circumstances, a judge of this court may refer your case to an alternative dispute resolution procedure described below. These procedures are not a substitute for the services of a lawyer and consultation with a lawyer is recommended. Because you are a party to a lawsuit, you have obligations and deadlines which must be followed whether you use an alternative dispute resolution procedure or not. **IF YOU HAVE BEEN SERVED WITH A PETITION, YOU MUST FILE A RESPONSE ON TIME TO AVOID THE RISK OF DEFAULT JUDGMENT, WHETHER OR NOT YOU CHOOSE TO PURSUE AN ALTERNATIVE DISPUTE RESOLUTION PROCEDURE.**

Alternative Dispute Resolution Procedures

There are several procedures designed to help parties settle lawsuits. Most of these procedures involve the services of a neutral third party, often referred to as the “neutral,” who is trained in dispute resolution and is not partial to any party. The services are provided by individuals and organizations who may charge a fee for this help. Some of the recognized alternative dispute resolutions procedures are:

(1) Advisory Arbitration: A procedure in which a neutral person or persons (typically one person or a panel of three persons) hears both sides and decides the case. The arbitrator’s decision is not binding and simply serves to guide the parties in trying to settle their lawsuit. An arbitration is typically less formal than a trial, is usually shorter, and may be conducted in a private setting at a time mutually agreeable to the parties. The parties, by agreement, may select the arbitrator(s) and determine the rules under which the arbitration will be conducted.

(2) Mediation: A process in which a neutral third party facilitates communication between the parties to promote settlement. An effective mediator may offer solutions that have not been considered by the parties or their lawyers. A mediator may not impose his or her own judgment on the issues for that of the parties.

CCADM73

(3) Early Neutral Evaluation (“ENE”): A process designed to bring the parties to the litigation and their counsel together in the early pretrial period to present case summaries before and receive a non-binding assessment from an experienced neutral evaluator. The objective is to promote early and meaningful communication concerning disputes, enabling parties to plan their cases effectively and assess realistically the relative strengths and weaknesses of their positions. While this confidential environment provides an opportunity to negotiate a resolution, immediate settlement is not the primary purpose of this process.

(4) Mini-Trial: A process in which each party and their counsel present their case before a selected representative for each party and a neutral third party, to define the issues and develop a basis for realistic settlement negotiations. The neutral third party may issue an advisory opinion regarding the merits of the case. The advisory opinion is not binding.

(5) Summary Jury Trial: A summary jury trial is a non binding, informal settlement process in which jurors hear abbreviated case presentations. A judge or neutral presides over the hearing, but there are no witnesses and the rules of evidence are relaxed. After the “trial”, the jurors retire to deliberate and then deliver an advisory verdict. The verdict then becomes the starting point for settlement negotiations among the parties.

Selecting an Alternative Dispute Resolution Procedure and a Neutral

If the parties agree to use an alternative dispute resolution procedure, they must decide what type of procedure to use and the identity of the neutral. As a public service, the St. Louis County Circuit Clerk maintains a list of persons who are available to serve as neutrals. The list contains the names of individuals who have met qualifications established by the Missouri Supreme Court and have asked to be on the list. The Circuit Clerk also has Neutral Qualifications Forms on file. These forms have been submitted by the neutrals on the list and provide information on their background and expertise. They also indicate the types of alternative dispute resolution services each neutral provides.

A copy of the list may be obtained by request in person and in writing to: Circuit Clerk, Office of Dispute Resolution Services, 105 South Central Ave., 5th Floor, Clayton, Missouri 63105. The Neutral Qualifications Forms will also be made available for inspection upon request to the Circuit Clerk.

The List and Neutral Qualification Forms are provided only as a convenience to the parties in selecting a neutral. The court cannot advise you on legal matters and can only provide you with the List and Forms. You should ask your lawyer for further information.

CCADM73

County Satellite Court Now Open in St. Ann

Hours: Mon-Fri 8:30 a.m. to 5:00 p.m. FREE PARKING

For the convenience of North County residents, a satellite branch of the St. Louis County Circuit Court is now open at the St. Louis County Government Center Northwest at the 715 Northwest Plaza Drive in St. Ann.

Attending Court Hearings Remotely using E-Courts

If you are scheduled to appear in court, you can access the courtroom remotely using the public computer stations (E-courts) in St. Ann and Clayton. These are available for use when courtroom access is restricted due to the pandemic.

Please note: Hearings for juvenile and paternity cases are confidential, and can only be accessed from the Clayton E-court at this time.

Be sure to bring your paperwork with you; you will need your case number, as well as the date, time and number of the Division where you are scheduled to appear.

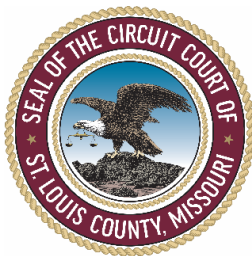
Filing Pleadings/New Petitions

If you are representing yourself, you may file your paperwork at the St. Ann satellite court, in addition to the Clayton courthouse, using the secure drop box located inside the Court reception area.

Filing Orders of Protection

Starting March 1, you may file for an Order of Protection at the Adult Abuse office in the St. Ann satellite court, in addition to the Clayton courthouse. Clerks will be available on-site to help you fill out and file the necessary paperwork.

For more information call: 314-615-8029



**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI**

BENJAMIN RUBY, on behalf of himself)	
and all others similarly situated,)	
)	
)	
Plaintiff,)	
)	
)	Case No. 21SL-CC03859
v.)	
)	Div. 12
BUILD-A-BEAR WORKSHOP, INC.)	
)	
)	
Defendant.)	

ENTRY OF APPEARANCE

Comes now David T. Butsch of Butsch Roberts & Associates LLC and hereby enters his appearance on behalf of Plaintiff Benjamin Ruby.

BUTSCH ROBERTS & ASSOCIATES LLC

By: /s/ David T. Butsch
David T. Butsch #37539
231 South Bemiston Ave., Suite 260
Clayton, MO 63105
(314) 863-5700 (telephone)
(314) 863-5711 (fax)
Butsch@ButschRoberts.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was served August 24, 2021 by operation of the Court's electronic filing system.

/s/ David T. Butsch



IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: STANLEY JAMES WALLACH	Case Number: 21SL-CC03859
Plaintiff/Petitioner: BENJAMIN RUBY	Plaintiff's/Petitioner's Attorney/Address CHRISTOPHER ELISHA ROBERTS SUITE 200 231 SOUTH BEMISTON AVE. CLAYTON, MO 63105
Defendant/Respondent: BUILD-A-BEAR WORKSHOP, INC.	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105
Nature of Suit: CC Other Tort	

(Date File Stamp)

Summons in Civil Case

The State of Missouri to: BUILD-A-BEAR WORKSHOP, INC.

Alias:

TINA KLOCKE, REGISTERED AGENT
1954 INNERBELT BUSINESS CTR DR
ST. LOUIS, MO 63114

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

SPECIAL NEEDS: If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739, email at SLCADA@courts.mo.gov, or through Relay Missouri by dialing 711 or 800-735-2966, at least three business days in advance of the court proceeding.

24-AUG-2021

Date

Further Information:
MT

James P. Sherry
Clerk

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☒ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with a person of the Defendant's/Respondent's family over the age of 15 years who permanently resides with the Defendant/Respondent.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).
- ☐ other _____

Served at 455 S. 18TH ST, ST. LOUIS, MO 63103 (address)
in ST. LOUIS (County/City of St. Louis), MO, on August 25, 2021 (date) at 12:30pm (time).

TALK EISEN

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on August 25, 2021 (date).My commission expires: 8/8/22 Date

Ann Mayer Eisen
Notary Public

ANN MAYER EISEN
Notary Public - Notary Seal
State of Missouri
Commissioned for St. Louis County
Commission Expires: August 08, 2022
Commission Number: 14428270

AFFIDAVIT OF SERVICE

Comes now JACK EISEN, and being duly sworn upon his oath states as follows his Return on a Summons in Civil Case (Case No: 21SL-CC03859) directed to Build-A-Bear Workshop, Inc.

1. That he served Build-A-Bear Workshop, Inc. by personally handing a copy of said Summons in Civil Case (Case No: 21SL-CC03859) to Kevin Robinson.

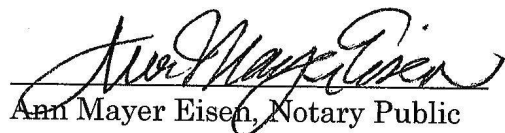
2. That said service was made at 12:30pm on the 25 day of August, 2021 within the City of St. Louis, State of Missouri, at Corporate Headquarters, 415 S. 18th St., St. Louis, MO 63103.

3. That the information given herein is true and accurate to Affiant's best knowledge, information and belief.


JACK EISEN, Affiant

STATE OF MISSOURI
COUNTY OF ST. LOUIS

On this 25 day of August, 2021 personally appeared before me, the person who signed the foregoing Affidavit, that same was executed as Affiant's free act a Notary Public, the above named Affiant, who being duly sworn, declared that Affiant is and deed and that the statements therein are true and correct to the best of the Affiant's knowledge, information & belief.


Ann Mayer Eisen, Notary Public

My Commission Expires:

